

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

GREAT AMERICAN INSURANCE
COMPANY,

Plaintiffs,

v.

CARDINAL LOGISTICS MANAGEMENT
CORPORATION, et al.,

Defendants.

Case No. 1: 21-cv-01556-AWI-SAB

ORDER ENTERING STIPULATION RE:
FIRST CAUSE OF ACTION

(ECF No. 17)

On February 10, 2022, a stipulation was filed whereby the parties appearing in this action have agreed that the first cause of action for Carmack Amendment Liability shall not be pursued against Defendant Cardinal Logistics Management Corporation. (ECF No. 17.) The stipulation specifies that should Plaintiff later seek leave to pursue this cause of action against Defendant Cardinal Logistics Management Corporation, Plaintiff must seek leave of the Court or submit a stipulation. (Id.)

Rule 15 is the proper mechanism to dismiss individual claims against defendants. See Hells Canyon Pres. Council v. U.S. Forest Serv., 403 F.3d 683, 687 (9th Cir. 2005) (“In the specific context of Rule 41(a)(1), we have held that the Rule does not allow for piecemeal dismissals. Instead, withdrawals of individual claims against a given defendant are governed by [Rule 15].”); Ethridge v. Harbor House Rest., 861 F.2d 1389, 1392 (9th Cir. 1988) (holding a plaintiff cannot use Rule 41 “to dismiss, unilaterally, a single claim from a multi-claim

complaint.”); but see Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997) (“The Plaintiff may dismiss some or all of the defendants, or some or all of his claims, through a Rule 41(a)(1) notice.”). The Court finds it proper to construe the parties’ stipulation as consent to amend the complaint under Rule 15 of the Federal Rules of Civil Procedure. See Hells Canyon Pres. Council, 403 F.3d at 689 (“The fact that a voluntary dismissal of a claim under Rule 41(a) is properly labeled an amendment under Rule 15 is a technical, not a substantive distinction.”) (quoting Nilssen v. Motorola, Inc., 203 F.3d 782, 784 (Fed. Cir. 2000)). Therefore, the Court will give full effect to the parties’ stipulation through a Rule 15 amendment.

Accordingly, IT IS HEREBY ORDERED that pursuant to the parties’ stipulation, the Plaintiff’s operative complaint (ECF No. 1) is DEEMED AMENDED and the first cause of action is no longer alleged against Defendant Cardinal Logistics Management Corporation.

IT IS SO ORDERED.

Dated: February 10, 2022


UNITED STATES MAGISTRATE JUDGE